

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION**

CASE NO.:

MARK A. JOHNSON,

Plaintiff,

v.

YPS LLC D/B/A SEAVIEW CRAB
COMPANY,

Defendant.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff MARK A. JOHNSON by and through his undersigned counsel, brings this Complaint against Defendant YPS LLC D/B/A SEAVIEW CRAB COMPANY for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MARK A. JOHNSON ("Johnson") brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Johnson's original copyrighted Work of authorship in his Work.
2. Johnson is a Brooks Institute of Photography graduate from Hawaii and living in Australia. He specializes in outdoor and adventure photography with a special interest in waves and coastal scenes, travel, sport (surfing, kite surfing, windsurfing, mountain biking, golf, and more), people & lifestyle and nature photography. Johnson's photography is highly regarded by art directors and editors and has been used in publications and companies around the world, including Outside, National Geographic Adventure, Microsoft, and General Motors.

SRIPLAW

3. Defendant YPS LLC D/B/A SEAVIEW CRAB COMPANY (“Seaview Crabs”) is a commercial fishing company. Seaview Crabs owns, controls and/or operates the website located at the URL: <http://seaviewcrabcompany.com/> (the “Website”).

4. Johnson alleges that Seaview Crabs copied Johnson's copyrighted Work from the internet in order to advertise, market and promote its business activities. Seaview Crabs committed the violations alleged in connection with Seaview Crabs’s business for purposes of advertising and promoting sales to the public in the course and scope of the Seaview Crabs’s business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in North Carolina.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

DEFENDANT

9. YPS LLC D/B/A Seaview Crab Company is a North Carolina Limited Liability Company, with its principal place of business at 1515 Marstellar Street, Wilmington, NC 28401, and can be served by serving its Registered Agent, Nathan B. King, 6458 Carolina Beach Road, Wilmington, NC 28412-2908.

THE COPYRIGHTED WORK AT ISSUE

10. In 2013, Johnson created the photograph entitled Corbis-42-56303402, which is shown below and referred to herein as the “Work”.

11. Johnson registered the Work with the Register of Copyrights on September 23, 2013 and was assigned the registration number VAu 1-149-956. The Certificate of Registration is attached hereto as Exhibit 1.

12. Johnson's Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

13. At all relevant times Johnson was the owner of the copyrighted Work at issue in this case.



INFRINGEMENT BY DEFENDANT

14. Seaview Crabs has never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, Seaview Crabs copied the Work.

16. On or about March 11, 2018, Johnson discovered the unauthorized use on the Website.

17. Seaview Crabs copied Johnson's copyrighted Work without Johnson's permission.

18. After Seaview Crabs copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its home page of their website.

19. Seaview Crabs copied and distributed Johnson's copyrighted Work in connection with Seaview Crabs's business for purposes of advertising and promoting Seaview Crabs's business, and in the course and scope of advertising and selling products and services.

20. Johnson's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

21. Seaview Crabs committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

22. Johnson never gave Seaview Crabs permission or authority to copy, distribute or display the Work at issue in this case.

23. Johnson notified Seaview Crabs of the allegations set forth herein on July 16, 2020 and August 5, 2020. To date, Seaview Crabs has failed to respond to Plaintiff's Notices. Copies of the Notices to Seaview Crabs are attached hereto as Exhibit 3.

COUNT I
COPYRIGHT INFRINGEMENT

24. Johnson incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. Johnson owns a valid copyright in the Work at issue in this case.

26. Johnson registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. Seaview Crabs copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Johnson's authorization in violation of 17 U.S.C. § 501.

28. Seaview Crabs performed the acts alleged in the course and scope of its business activities.

29. Seaview Crabs's acts were willful.

30. Johnson has been damaged.

31. The harm caused to Johnson has been irreparable.

WHEREFORE, the Plaintiff Mark A. Johnson prays for judgment against the Defendant YPS LLC D/B/A Seaview Crab Company that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendant be required to pay Plaintiff his actual damages and Seaview Crabs's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

- c. Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Plaintiff be awarded pre and post-judgment interest; and
- e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: January 6, 2021

Respectfully submitted,

/s/ Arthur H. Piervincenti

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